



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

FEB 24 2012

201220055

Uniform Issue List: 402.00-00

T:EP:RA:T1

Legend:

Taxpayer A = *****

Plan X = *****

State A = *****

Account B = *****

Amount D = *****

Amount E = *****

Amount F = *****

Date 1 = *****

Date 2 = *****

Date 3 = *****

Dear *****:

This is in response to a ruling request dated April 22, 2011, as supplemented by correspondence dated October 3 and 14, 2011, and February 2, 2012, in which

you request a waiver of the 60-day rollover requirement contained in section 402(c)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A, age , represents that upon termination of employment he received from Plan X a check dated Date 1, in the amount of Amount D, and a second check dated Date 2, in the amount of Amount E, for a total distribution of Amount F from Plan X. Amounts D and E were deposited into Account B, a non-IRA account, on Date 3 and remain in Account B.

Taxpayer A asserts that his failure to accomplish rollovers of Amounts D and E within the 60-day period prescribed by section 402(c)(3) was due to the serious and ongoing nature of an illness impacting an immediate family member's health and military commitments and obligations from having been called to active military duty. During the 60-day rollover period applicable to the distribution of Amount D as well as Amount E, Taxpayer A asserts that he was totally overwhelmed with providing care for a child afflicted with a serious illness while fulfilling his military commitments at the same time.

Taxpayer A represents that at the time the distributions of Amounts D and E were made from Plan X, he had been called into military service on a full-time basis as the officer in charge of a highly trained and specialized response unit operated by the State A Army National Guard. Taxpayer A further represents that the very stressful nature of his military job, when coupled with the added pressure of dealing with his child's illness and rehabilitative care, resulted in him being unable to follow up in a timely manner on a discussion he had with his financial advisor on or about Date 3, who had recommended that he invest the distributions from Plan X (Amounts D and E) in a specific IRA.

Based on the above facts and representations, Taxpayer A requests a waiver of the 60-day rollover requirement contained in Code section 402(c)(3), with respect to the distributions of Amounts D and E.

Section 402(c) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution, and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be includible in gross income for the taxable year in which paid. Section 402(c)(3)(A) states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An individual retirement account (IRA) constitutes one form of eligible retirement plan.

Section 402(c)(3)(B) of the Code provides, in relevant part, that the Secretary may waive the 60-day requirement under section 402(c)(3)(A) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001 are eligible for the waiver under section 402(c)(3)(B) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 402(c)(3) of the Code, the Internal Revenue Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with Taxpayer A's assertion that his failure to roll over Amounts D and E within the requisite 60-day period was caused by his total preoccupation with the serious illness afflicting his child and military commitments.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distributions of Amounts D and E from Plan X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute no more than Amount F (Amount D plus Amount E) into a Rollover IRA or another qualified plan. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution will be considered a rollover contribution within the meaning of section 402(c)(3).

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact *****

Sincerely,

Carlton A. Watkins

Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

- ▶ Deleted copy of ruling letter
- ▶ Notice of Intention to Disclose